

1 Elena Condes (CBN 169515)  
LAW OFFICE OF ELENA CONDES  
2 1010 Grayson Street, Suite Two  
Berkeley, California 94710  
3 Tel: (510) 525-4243  
Fax: (510) 644-1511  
4

5 Attorney for Defendant  
HENRI BERGER  
6

7 UNITED STATES DISTRICT COURT  
8 NORTHERN DISTRICT OF CALIFORNIA  
9 OAKLAND DIVISION  
10

11 UNITED STATES OF AMERICA,

No. CR-05 00334 SBA

12 Plaintiff,

13 vs.

14 HENRI BERGER,  
a/k/a Sir Richard Benson

15 Defendant.  
16 \_\_\_\_\_/

SUPPLEMENTAL REQUEST FOR  
WAIVER OF DEFENDANT HENRI  
BERGER'S PERSONAL PRESENCE AT  
THE PRE-TRIAL CONFERENCE; AND  
DECLARATION OF DR. IVOR L. GEFT,  
M.D. IN SUPPORT THEREOF

(Fed.R.Crim.P. 43)

17 Defendant, Henri Berger, by and through his attorney of record, Elena Condes, hereby  
18 submits a Supplemental Request for Waiver of Defendant Henri Berger's Personal Presence at  
19 the Pre-trial Conference. On May 9, 2006, defendant, Henri Berger, filed a Waiver of Defendant  
20 Henri Berger's Personal Presence, Doc. No. 146 with the Court. On May 10, 2006, the Court  
21 denied Mr. Berger's Waiver of Personal Presence, Doc. 148. The Court did not find good cause  
22 to waive Mr. Berger's appearance as he had a pre-op appointment on May 11, 2006 and the  
23 procedure on May 17, 2006, and no appointment on May 16, 2006 (the day of the Pre-Trial  
24 Conference). The Court further stated that "[Mr. Berger] did not provide any other explanation  
25 regarding his inability to appear at the Pre-Trial Conference" on May 16, 2006.

26 Mr. Berger attended his pre-op appointment today, May 11, 2006, and submits the  
27 attached Declaration of Dr. Ivor L. Geft, M.D. in support of his Supplemental Request for  
28

Supplemental Request for Waiver of Defendant  
Henri Berger's Personal Presence  
(Fed. R. Crim. P. 43)

1 Waiver of Defendant Henri Berger's Personal Presence.

2 Defendant Berger's treating physician, Dr. Geft, stated that "Mr. Berger is at risk for a  
3 future heart attack because of his present symptoms and past history." Dr. Geft further stated that  
4 he "strongly feel[s] that [Mr. Berger] should not be subjected to any stress associated with any  
5 pre-trial appearance or a trial till after the angiogram has been performed and he has completely  
6 recovered from the said angiogram, or any procedure conducted as a result of the said  
7 angiogram." See, attached Declaration of Dr. Ivor L. Geft, M.D.

8 Accordingly, Defendant Berger respectfully requests that the Court to allow Mr. Berger  
9 to Waive his Personal Presence at the Pre-Trial Conference.

10  
11 Dated: May 9, 2006

\_\_\_\_\_  
/S/  
Elena Condes, Attorney for  
Defendant HENRI BERGER

12  
13  
14  
15 Based on the foregoing, the Court hereby FINDS good cause to allow Defendant to  
16 Waive his appearance at the Pre-Trial Conference. IT IS HEREBY ORDERED that Mr.  
17 Berger's appearance on May 16, 2006 is WAIVED.

18  
19 IT IS SO ORDERED.

20  
21  
22 Dated: May 12, 2006

\_\_\_\_\_  
*Saundra B. Armstrong*  
SAUNDRA BROWN ARMSTRONG  
United States District Judge